Vs 152

(2)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

M.A. (C) NO. 156 /2007

APPELLANTS :1. Smt. Sunita Pandey, Wd/o. Late Yuvraj Pandey, aged 33 years,

2. Ramgopal Pandey, son of late Yuvraj Pandey, aged 12 years,

3. Prashant Pandey, son of late Yuvraj Pandey, aged 10 years

All residents of Pithora, P.S. Pithora, District- Mahasamund (C.G.) No.2 and No.3 minors, through their natural guardian mother Smt. Sunita No.1.

P.R. No. 331 dated 31/1/07 Presented by Shri R.K. Sharma

VERSUS

RESPONDENTS : 1. Ram Avadh Yadav, Son of Shivshankar Yadav, aged about 27 years, resident of Alman Ganj, P.S. Satpura, District Baliya (U.P.) Through S.S.R. Road Liance, Tatibandh Raipur (C.G.)

2. Guljar Singh son of Nirmal Singh, aged 45 years, resident of 5 Chandranath Chatterjee Marg, Bhawanipur, District – Kolkata (W.B.), Through : S.S.R. Road Liance, Tatibandh, Raipur (C.G.)

(3)

3. National Insurance Company Limited, Poddar Court Gate No.4, 18 Ravindra Saini, Kolkata (W.B.), through: Regional Office National Insurance Company Limited, G.E. Rod, Raipur, District Raipur (C.G.)

MISCELLANEOUS APPEAL UNDER SECTION 173 OF THE MOTOR VEHICLE ACT, 1988

XI-HC-22

(16)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक MA(C) No. 156/2007 **सन्** 200

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Division Bench :

Hon. Mr. V.K. Shrivastava &
Hon. Mr.Dhirendra Mishra, JJ

9-2-2007

Shri Raghvendra Pradhan, counsel for the appellants.

None for the respondents.

Heard.

This Misc. Appeal under Section 173 of the Motor Vehicles Act, 1988 has been preferred by the claimants for enhancement of the award passed in their favour for the death of Yuvraj Pandey, who was the husband of appellant No.1 and father of appellants No.2 and 3, by the learned Second Additional Motor Accidents Claims Tribunal, Mahasamund (for short "the Tribunal"), in claim case No.220/2006, whereby allowing the claim case of the appellants awarded a sum of Rs.6,92,000/-.

The instant appeal has been preferred by the appellants only on the ground that the deceased was working as Supervisor in a Gudaku Company and was getting an amount of Rs.10,000/- per month towards salary. To substantiate this, a salary certificate (Ex.P/8) was filed by the claimants and was duly proved. However, the Tribunal assessing the monthly salary of the deceased at Rs.5,000/- per month, has awarded the above compensation, which is on the face of it contrary to the evidence available on record.

We have heard learned counsel for the parties and perused the impugned award. In para 13 of the award, the Tribunal has disbelieved the document Ex.P/8 (salary certificate), issued by the Gudaku Company and proved by the employer, on the ground that neither appointment letter nor any documentary evidence regarding disbursement of above salary or

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

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	Income Tax return has been filed by the claimants. The Tribunal on the evidence that the deceased was earlier engaged with one Dolphin Company, Raipur and was obtaining an amount of Rs.5,000/- per month towards salary, assessed the earning capacity of the deceased at Rs.5,000/- per month and passed the impugned award. In view of the above, we are of the considered opinion that the reason for which the salary certificate (Ex.P/8) has been disbelieved is just & proper and no interference is called for in the impugned award. In the result, the appeal being devoid of substance deserves to be dismissed and is accordingly dismissed. Sd/- V.K.Shrivastava Judge	**Sd/-** **Dhirendra Mishra** **Judge**
Gowri		

(पीछे देखिये)